

REMARKS

I. Introduction

With the cancellation without prejudice of claims 3 and 4 and the addition of new claims 12 and 13, claims 1, 2 and 5 to 13 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, PTO-1449 paper and cited references.

As an initial matter, it is noted that the Office Action Summary states that claims 1 to 3 and 5 to 11 are rejected and that claim 4 is objected to. However, the Detailed Action does not set forth any grounds of rejection of claim 10 or claim 11 and does not set forth any ground of objection to claim 4. Clarification is respectfully requested.

II. Correction of Typographic Error in Specification

The Examiner will note that the Specification has been amended herein without prejudice to correct a typographic error to change "298 09 342" to --298 09 412--. No new matter has been added.

III. Rejections of Claims 1 to 9 Under 35 U.S.C. § 112

As regards the rejection of claim 1 to 3 under 35 U.S.C. § 112, the Office Action fails to identify the provision(s) of 35 U.S.C. § 112 with which claims 1 to 3 are considered to fail to comply. The text of paragraphs 5, 6 and 7 of the Office Action provides no further guidance in this regard. It is therefore not possible to provide a meaningful response to this rejection. Clarification is thus respectfully requested.

The Office Action states that claims 3 to 9 are rejected under 35 U.S.C. § 112, second paragraph on the basis that "the format for a method claim is not conformed." This statement cannot be understood. Furthermore, the format of a claim does not give rise to a rejection of a claim as indefinite, since the definiteness

requirement merely requires a claim to “set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity.” M.P.E.P. § 2173.02. Indeed, Examiners “should not reject claims or insist on their own preferences if other modes of expression selected by applicants satisfy the statutory requirement.” Id.

Regarding the second and third paragraphs of text following paragraph number 8 in the Office Action, the text of these paragraphs do not in any manner relate to the requirements of 35 U.S.C. § 112, second paragraph. Thus, their significance as it pertains to the present rejection is not understood. Clarification is therefore respectfully requested.

In view of all of the foregoing, withdrawal -- or at least clarification -- of these rejections is respectfully requested.

IV. Assertions of Well-Known Fact

Applicants respectfully traverse any and all assertions of well-known fact included in the Office Action and respectfully request published information concerning these assertions and/or an affidavit under 37 C.F.R. § 1.104(d)(2) concerning these assertions.

V. Rejection of Claims 1 to 3 and 7 Under § 102(e)

Claims 1 to 3 and 7 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,792,916 (“Oashi”). It is respectfully submitted that Oashi does not anticipate the present claims as amended herein for at least the following reasons.

Claim 1 has been amended herein without prejudice to include the features of included in original claims 3 and 4. Amended claim 1 relates to a method for controlling an electromagnetic valve and recites a method for controlling an electromagnetic valve, comprising: triggering a coil of the electromagnetic valve by a control device with a pulse-width-modulated trigger signal; and altering a clock frequency of the trigger signal by the control device as a function of a performance quantity of the electromagnetic valve, the clock frequency being a function of at least one of a setpoint valve current through the coil and an actual valve current through the coil, wherein: an armature of the electromagnetic valve is movable on the basis of a force generated by the coil, wherein: an indicated force and thus a position of

the armature is a function of at least one of the setpoint valve current and the actual valve current, the electromagnetic valve has a transfer cross section for influencing at least one of a pressure condition of a working medium and a flow condition of the working medium, the transfer cross section is variable via the armature, the setpoint valve current includes a first setpoint valve current and a second setpoint valve current, the clock frequency at at least one of the first setpoint valve current and the actual valve current is greater than that at at least one of the second setpoint valve current and the actual valve current, and the transfer cross section at at least one of the first setpoint valve current and the actual valve current is smaller than that at at least one of the second setpoint valve current and the actual valve current.

Oashi allegedly describes a valve where the degree of opening of the valve can be set from the fully open to the closed position as a function of the average current flow through an electromagnet of the valve. In a position in which the degree of opening of the valve is reduced or is zero, and thus the transfer cross section is reduced or is zero for influencing pressure or flow ratios of an operating medium, the control frequency is reduced so that the valve element vibrates at a great amplitude and sticking of the valve element in this position is prevented. In contrast, amended claim 1 recites a method for controlling an electromagnetic valve where the control frequency is greater during a first setpoint flow and/or actual flow than during a second setpoint flow and/or actual flow. The first setpoint flow and/or actual flow and the second setpoint flow and/or actual flow provide that the transfer cross section of the valve, and thus its degree of opening is less during the first setpoint flow and/or actual flow than during the second setpoint flow and/or actual flow. That is, in response to a small transfer cross section and thus a small degree of opening of the valve element the electromagnet is triggered using a greater clock frequency than in response to a greater degree of opening, whereby it is intended to avoid a powerful motion and bouncing of the valve element off the valve seat. Thus, Oashi teaches the clock frequency is reduced at a small degree of opening whereas in amended claim 1 the clock frequency is increased.

To anticipate a claim, the reference must disclose each and every element of the claimed invention. Verdergaal Bros. v. Union Oil Co. of Cal., 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987). As more fully set forth above, Oashi does not disclose, or even suggest, all of the features recited in amended claim 1. As such, it is respectfully submitted that Oashi does not anticipate claim 1.

As for claims 2 and 7, which depend from claim 1, it is respectfully submitted that Oashi does not anticipate these dependent claims for at least the same reasons more fully set forth above in support of the patentability of claim 1.

For at least the foregoing reasons, withdrawal of this rejection is respectfully requested.

VI. Claims 10 and 11

It is noted that the Office Action includes no grounds of rejection of claims 10 and 11.

VII. New Claims 12 and 13

New claims 12 and 13 include the features of original claims 10 and 11 respectively. Since the Office Action failed to rejection claims 10 and 11 on any ground, it is respectfully submitted that claims 12 and 13 are in condition for immediate allowance.

VIII. Conclusion

In light of the foregoing, Applicants respectfully submit that all pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

Date: January 31, 2007

By:  /
Gerard A. Messina
Reg. No. 35,952

KENYON & KENYON LLP
One Broadway
New York, NY 10004
Telephone: (212) 425-7200
Facsimile: (212) 425-5288
CUSTOMER NO. 26646